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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,885	10/27/2000	Thomas J. Hock	2705-133	5979
7590	03/15/2004		EXAMINER	
MARGER JOHNSON & McCOLLOM, P.C.			CANGIALOSI, SALVATORE A	
1030 S.W. Morrison Street			ART UNIT	PAPER NUMBER
Portland, OR 97205			2661	
DATE MAILED: 03/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/698,885	HOCK, THOMAS J.
	Examiner Salvatore Cangialosi	Art Unit 2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 October 2000.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 1-24 are rejected under 35 U.S.C. § 103 as being unpatentable over Farris et al.

Regarding claim 1, Farris et al (See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an apparatus for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a

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similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables. Regarding claim 2, the differences between the above and the claimed invention is the use of voice sample delay at the digital stage. It is further obvious that the time variance between voice data packets (see Col. 10, lines 50-55) is a measure of delay and that voice data packets are digital data packets. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is an obvious functional equivalent of the patent disclosure.

Regarding claim 3, the differences between the above and the claimed invention is voice sample signal loss. Farris et al (See Col. 10, lines 60-65) disclose determining the frequency of missed or dropped voice packets which is the functional equivalent of voice sample signal loss. Regarding the limitations of claim 4, Farris et al (See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an apparatus for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of

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repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables.

Regarding the quality of service limitations of claim 5, Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to quality of service is based on a plurality of measured variables. Regarding the updating limitations of claim 6, Farris et al (See Col. 10, lines 45-46) show quality of the data network being continually monitored. It is obvious that such continuous monitoring must include updating of the original measurements to be continuous. Regarding claim 7, Farris et al (See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an means for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service and the use of

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software to implement the means. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables it is further obvious to employ software to implement a means.

Regarding claim 8, the differences between the above and the claimed invention is the use of voice sample delay at the digital stage. It is further obvious that the time variance between voice data packets(see Col. 10, lines 50-55) is a measure of delay and that voice data packets are digital data packets. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is an obvious functional equivalent of the patent disclosure.

Regarding claim 9, the differences between the above and the claimed invention is voice sample signal loss. Farris et al (See Col. 10, lines 60-65) disclose determining the frequency of missed or dropped voice packets which is the functional equivalent of voice sample signal loss. Regarding the limitations of claim 10, Farris et al(See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an apparatus for having data packet

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network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables. Regarding the quality of service limitations of claim 11, Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to quality of service is based on a plurality of measured variables. Regarding the updating limitations of claim 12, Farris et al (See Col. 10, lines 45-46) show quality of the data network being continually monitored. It is obvious that such continuous monitoring must include updating of the original measurements to be continuous. Regarding claim 13, Farris et al (See Figs. 5-6B, col. 10, lines

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45-65, and claims 9-10) disclose an apparatus for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables. Regarding claim 14, the differences between the above and the claimed invention is the use of voice sample delay at the digital stage. It is further obvious that the time variance between voice data packets (see Col. 10, lines 50-55) is a measure of delay and that voice data packets are digital data packets. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is an obvious functional equivalent of the patent disclosure. Regarding claim 15, the differences between the above and the claimed invention is voice sample signal loss. Farris et al (See Col. 10, lines 60-65) disclose determining the frequency of

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missed or dropped voice packets which is the functional equivalent of voice sample signal loss. Regarding the limitations of claim 16, Farris et al (See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an apparatus for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables. Regarding the quality of service limitations of claim 17, Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to quality of service is based on a plurality of measured variables. Regarding the updating limitations of claim 18, Farris et al (See Col. 10,

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lines 45-46) show quality of the data network being continually monitored. It is obvious that such continuous monitoring must include updating of the original measurements to be continuous. Regarding claim 19, Farris et al (See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an method for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables. Regarding claim 20, the differences between the above and the claimed invention is the use of voice sample delay at the digital stage. It is further obvious that the time variance between voice data packets (see Col. 10, lines 50-55) is a measure of delay and that voice data packets are digital data packets. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is an obvious functional equivalent of

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the patent disclosure. Regarding claim 21, the differences between the above and the claimed invention is voice sample signal loss. Farris et al (See Col. 10, lines 60-65) disclose determining the frequency of missed or dropped voice packets which is the functional equivalent of voice sample signal loss. Regarding the limitations of claim 22, Farris et al (See Figs. 5-6B, col. 10, lines 45-65, and claims 9-10) disclose an apparatus for having data packet network determining the quality of service based on a round trip time for data packets measured substantially as claimed. The differences between the above and the claimed invention is the use of a plurality of performance parameters to determine quality of service. Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Farris et al because it is obvious to employ round trip time and another measured performance criteria because they are well known and conventional and because it is explicitly enumerated as one of the measured variables.

Regarding the quality of service limitations of claim 23, Farris et al (See Col. 10, lines 45-65) show a quality test application can apply a plurality of repetitive test criteria to determine acceptable quality during the course of a call. It would have been obvious to the person having ordinary skill in this art to

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provide a similar arrangement for Farris et al because it is obvious to quality of service is based on a plurality of measured variables. Regarding the updating limitations of claim 24, Farris et al (See Col. 10, lines 45-46) show quality of the data network being continually monitored. It is obvious that such continuous monitoring must include updating of the original measurements to be continuous. Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number (703) 305-1837. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms, can be reached at (703) 305-4703.

**Any response to this action should be mailed to:**

Commissioner of Patent and Trademarks  
Washington, D.C. 20231

**or faxed to (703) 872-9306**

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, Virginia, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

*Salvatore Cangialosi*  
SALVATORE CANGIALOSI  
PRIMARY EXAMINER  
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